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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,565	08/24/2004	Ralf Wiedemann	102792-333	3643
27389 7590 09/11/2009 NORRIS, MCLAUGHLIN & MARCUS 875 THIRD AVE 18TH FLOOR NEW YORK, NY 10022			EXAMINER DOUYON, LORNA M	
			ART UNIT 1796	PAPER NUMBER
			MAIL DATE 09/11/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/505,565	<b>Applicant(s)</b> WIEDEMANN ET AL.	
	<b>Examiner</b> Lorna M. Douyon	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,5-9 and 15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5-9 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

1. This action is responsive to the amendment filed on June 11, 2009.
2. Claims 1, 5-9 and 15 are pending.
3. Claims 1, 5-9 and 15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Becks et al. (WO 02/057402) for the reasons set forth in the previous office action and which is repeated below for Applicants' convenience.

Becks teaches a liquid composition comprising a transparent or translucent liquid medium and solid particles contained within the liquid medium wherein the composition is contained within a pouch made from a transparent or translucent water-soluble material, so that the individual solid particles are visible from outside of the pouch, the solid particles having a mean geometric diameter of between 0.5mm and 12 mm (see abstract). One of the advantages of the invention of Becks is that the solid particles do not necessarily need to be stably suspended in the liquid medium, but rather the solid particles may sink or float in the liquid medium (see page 2, last paragraph). The liquid composition can have any viscosity and the viscosity may be controlled, if desired, by using various viscosity modifiers (see page 7, lines 10-14). The compositions are typically laundry or dishwashing compositions (see page 7, lines 19-21). In one preferred embodiment, the solid particle is a particulate bleach or bleach activator (see page 21, lines 17-18), or an enzyme encapsulate (see page 22, lines 27-28). In Example 2b, Becks teaches a low moisture liquid detergent composition with one 10 mm sphere/capsule a pouch of soluble polyvinyl alcohol film, wherein the spherical

Art Unit: 1796

particle of sample b is less dense than the detergent and float in the detergent in the pouch and rapidly dissolve when the pouch is added to the wash (see entire page 26). Becks, however, fails to specifically disclose one particle of bleach, bleach activator or enzyme floating in the detergent in the pouch.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have prepared a packaged detergent wherein one particle of bleach, bleach activator or enzyme is floating in the detergent because Becks teaches that bleach, bleach activator or enzyme are preferred solids on page 21, lines 17-18 and page 22, lines 27-28, and on page 2, last paragraph, such solids may float, and on page 26, last paragraph and page 28, line 3, only one solid is used. Hence, in view of the above teachings, a person of ordinary skill in the art would have been motivated to prepare one solid of bleach, bleach activator or enzyme which floats in the detergent.

4. Claims 1, 5-8 stand rejected under 35 U.S.C. 103(a) as being obvious over Pfeiffer et al. (US Patent No. 6,492,312), hereinafter "Pfeiffer" for the reasons set forth in the previous office action and which is repeated below for Applicants' convenience.

Pfeiffer teaches a water soluble sachet comprising a detergent composition having a discrete particle that enhances cleaning in a dishwashing machine (underlining supplied, see abstract; col. 1, lines 7-10), wherein the dishwashing composition is a gel which comprises discrete particles having an approximate diameter from about 100 to about 5000 microns (5mm) (see col. 2, lines 60-63) and having a viscosity from about 100 to about 45,000 cps (about 100 to about 45,000 mPas) (see col. 4, lines 56-61).

Art Unit: 1796

The discrete particles may be a wax-encapsulated bleach (see col. 9, line 17). Suitable materials for the water soluble sachet include polyvinyl alcohol (see col. 3, lines 48-65). Pfeiffer, however, fails to disclose the density of the solid particle, and one solid floating on the outer surface of the liquid.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the density of the discrete particle, for example, the wax-encapsulated bleach to have a density lower than the density of the dishwashing composition and to have a discrete wax-encapsulated bleach particle to float on the outer surface of the liquid, considering that the bleach is encapsulated in wax, which is lighter, and would have been expected to float in the composition.

5. Claim 9 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Pfeiffer as applied to the above claims, and further in view of Dasque et al. (WO 01/60966), hereinafter "Dasque" for the reasons set forth in the previous office action and which is repeated below for Applicants' convenience.

Pfeiffer teaches the features as described above. Pfeiffer, however, fails to disclose the water soluble sachet comprising a detergent composition for use in a laundry washing machine.

Dasque, an analogous art, teaches that a detergent composition in a water-soluble pouch comprising similar ingredients (see abstract) are prepared as laundry or dishwashing compositions (see page 21, lines 29-32), hence useful for laundry or dishwashing machines.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the product of Pfeiffer not only for dishwashing purposes but also for laundry washing because it is known from Dasque that a similar product is useful for both laundry and dishwashing applications.

### ***Response to Arguments***

6. Applicants' arguments filed June 11, 2009 have been fully considered but they are not persuasive.

With respect to the obviousness rejection based upon Becks, Applicants argue that there is nothing in the prior art that would have suggested the synergy between solid dissolution and liquid viscosity. Applicants argue that Becks teaches only generally that the viscosity of the liquid can be controlled and gives absolutely no hint or suggestion to keep the viscosity above 100 MPa.s in order to optimize the dissolution of the solid. Applicants also submit that the surprising and unexpected synergy is rebuttal evidence of a *prima facie* case of obviousness.

The Examiner respectfully disagrees with the above arguments because it is clear on page 7, lines 10-14, that Becks teaches that the liquid composition can have any viscosity and the viscosity may be controlled, if desired, by using various viscosity modifiers such as hydrogenated castor oil and/or solvents. Said viscosity modifiers should adjust the viscosity of the liquid composition within those recited in the instant claims. With regards to the surprising and unexpected synergy between solid

Art Unit: 1796

dissolution and liquid viscosity, Applicants have not provided any evidence or criticality as to these parameters when compared to the prior art like Becks.

With respect to the obviousness rejection based upon Pfeiffer, and Pfeiffer in view of Dasque, Applicants argue that Pfeiffer teaches multiple particles distributed throughout the liquid, whereas the presently claimed invention is directed to only one solid floating on the outer surface of the liquid.

The Examiner respectfully disagrees with the above arguments because Pfeiffer teaches, in the abstract and col. 1, lines 7-10, a water soluble sachet comprising a detergent composition having a discrete particle (suggesting one particle which meet the limitation of “one solid” of the instant claims) that enhances cleaning in a dishwashing machine. As stated above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to reasonably expect the discrete wax-encapsulated bleach particle of Pfeiffer whose particle size overlaps those recited to float on top of the liquid composition, considering that the bleach is encapsulated in wax, which is lighter, and would have been expected to float in the composition.

Applicants also argue that a packaged detergent composition having one solid floating on the outer surface of the liquid would not have been predictable based on the disclosure of Pfeiffer. Applicants also argue that there is no indication within Pfeiffer that the release of the solid particles disclosed therein can be affected by the density of the solid and the location of the solid particle within the liquid, and thus, one skilled in the art, at the time of the invention, could not predict that including one solid in the liquid

composition with a density such that it floats on the outer surface of the liquid would favorably decrease the release time of the solid into the wash liquor.

The response above applies here as well. All disclosures of the prior art, including non-preferred embodiment, must be considered. See *In re Lamberti and Konort*, 192 USPQ 278 (CCPA 1967); *In re Snow* 176 USPQ, 328, 329 (CCPA 1973). In addition, the examples in the specification (see pages 27-29) have been carefully considered, however, they are not commensurate in scope with the present claim 1. The viscosities of the liquid compositions in the cited examples were not mentioned, and the showing is only true for the specific components and particle sizes in the examples.

With respect to the rejection of claim 9 based upon Pfeiffer in view of Dasque, Applicants argue that this claim is dependent from claim 1, and as discussed above, claim 1 is not obvious over Pfeiffer, and such a method of washing laundry is not obvious over Pfeiffer in view of Dasque.

The above response to Pfeiffer applies here as well. Hence, the combination of Pfeiffer with Dasque is maintained.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within



TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to 3 whose telephone number is 571-272-1313. The examiner can normally be reached on Mondays-Fridays 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Lorna M Douyon/  
Primary Examiner, Art Unit 1796

Application/Control Number: 10/505,565  
Art Unit: 1796

Page 9